

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 22ND SEPTEMBER 2006 / 31ST BHADRA 1928

Bail Appl..No. 5389 of 2006

CMP.2183/2006 of J.M.F.C.-I, ALUVA
CRIME NO.435/2006 OF CHENGAMANAD POLICE STATION
.....

PETITIONER/ACCUSED IN CR.435/2006:

SHAJI @ THAMMANAM SHAJI,
S/O. ABDUL KAREEM, AGED 38 YEARS,
PALATHURUTHIPARAMBU HOUSE, THAMMANAM, ERNAKULAM.

BY ADV. SRI.K.A.JALEEL
SRI.N.K.POULOSEKUTTY

RESPONDENTS: COMPLAINANT:

STATE OF KERALA (REP. BY THE
SUB INSPECTOR OF POLICE, CRIME DETACHMENT, ALUVA
(CR.NO.435 OF 2006 OF CHENGAMANAD POLICE STATION)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY D.G.P. SRI. P.G. THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22/09/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.M.JAMES, J.

B.A. 5389/2006

DATED THIS THE 22ND DAY OF SEPTEMBER, 2006

O R D E R

The petitioner is accused of the offence punishable under Sections 419, 468 and 471 IPC and Section 12(1), (b) and (d) of the Passport Act.

2. The allegation is that on 22.7.2006 at about 7.50 p.m, the petitioner had tried to fly through Srilankan Airlines, in order to escape from the trial of the criminal cases, pending against him and conviction thereon. The vehement argument of the D.G.P is that the petitioner, who is a known criminal of the State, had attempted to flee from the State, in order to defeat the ends of justice. The passport used was in the name of one Abdullah. But the photograph was that of the petitioner, though his actual name in all the records, is different. The prosecution, therefore, submits that granting of the bail, though sixty days are complete, would be against the interest of the prosecution.

3. The learned counsel K.A.Jaleel, who is aware of the circumstances placed against the petitioner, submits, that though the accused had committed different offence, as alleged by the prosecution, he had reformed himself and is now married and living a life away from the criminal activities, that had been suspected of the petitioner. It is also the submission of the counsel that because of his mental reformation, he is practicing himself of the pious thoughts and actions and his attempt to go to Srilanka was to participate in a prayer, along with 30 other persons, at Adam Mount, where the pious persons assemble and involve themselves, in activities to attain mental solace and peace. The counsel hence submits that there was no other ill intention although the mode of travel attempted by him in using the passport, was against the provisions of law.

4. I agree with the arguments of the prosecution that the Circle Inspector of Emigration Department, Kochi International Airport, Nedumbassery, had detected the petitioner who was trying to flee from the

State, as there are four criminal cases registered against him, by the Ernakulam North Police Station and two cases registered by Palarivattam Police Station, Ernakulam. The prosecution also brought to my notice that his photographs are affixed in strategic points of the State. Even then the petitioner dared to flee from the hands of justice and to prevent the action to be taken against him. Therefore, there is opposition from the prosecution for granting bail to the petitioner.

5. However, considering the submissions made by the counsel that the petitioner is now a changed and fully reformed person, I am inclined to give him an opportunity, so that he may not be continuously put into the group of persons, with whom he had acquaintance or connected activities.

6. Therefore, I am inclined to grant bail but with strict conditions, so that he will be under the supervision and surveillance of the police officials, particularly that the S.H.O of the Chengamanadu police station, who registered crime No.435/2006 against the petitioner, which is the subject matter of this application, under

Section 439 Cr.P.C.

7. In the above facts situation of the case, I grant bail and release the petitioner from jail, subject to the following conditions:-

(a). The petitioner shall execute a bond for Rs.50,000/-, with two solvent sureties, each for the like sum, to the satisfaction of the Judicial Magistrate of First Class-I, Aluva.

(b). At least one of the sureties shall produce a solvency certificate, at the time of execution of bond.

(c). The petitioner shall report before the Investigating Officer, once in a week, on every Wednesday, between 10.00 a.m and 11.00 a.m., for a period of three months, starting from the first Wednesday after his release, and thereafter, once in a fortnight, on the day fixed by the Investigating Officer, till the trial and disposal of the case.

(d). The petitioner shall not leave the

State of Kerala, till the completion of the trial and disposal of the Sessions case.

(e). The petitioner shall not indulge in any activities like threatening the witnesses, attempting to influence them or causing any hindrance to the smooth conduct of the prosecution case.

The application is allowed as above.

**J.M.JAMES
JUDGE**

mrCS